IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 465 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJPUT RAMESHKUMAR BABUJI & ANR
Versus
STATE OF GUJARAT

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Appearance :
MR RJ GOSWAMI for Appellants
MR SS PATEL APP for Opponent

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA

Date : 11/10/2006

ORAL JUDGMENT

1 Heard learned Advocate Mr. R.J. Goswami for the appellants, learned APP Mr. S.S. Patel for respondent State and learned Advocate Mr. Asim Pandya for the injured Babaji

Raydhanji Rajput.

2 This Appeal is preferred by appellants – original accused Nos. 2 and 3, under Section 374 (2) of the Code of Criminal Procedure, 1973, and is directed against the judgment and order dated 31st of December, 2005, delivered by learned Additional Sessions Judge and Presiding Officer, 5th Fast Track Court, Mehsana, in Sessions Case No. 219 of 2005, whereby the present appellants came to be convicted for the offence punishable under Sections 325 and 323 to read with Section 114 of the Indian Penal Code. Each of the appellants came to be sentenced by the Trial Court for rigorous imprisonment of one year and to pay fine of Rs. 1,000/- in default to undergo simple imprisonment of one month for the offence punishable under Section 325 of the Indian Penal Code. While each of the appellant was sentenced to undergo simple imprisonment of one month and to pay fine of Rs. 250/- in default to undergo simple imprisonment of 15 days for the offence punishable under Section 323 of the Indian Penal Code.

3 The Appeal came to be admitted by this Court on 10th of March, 2006 and both the appellants are on bail by virtue of the orders passed by this Court on 28th of March, 2006, in Criminal Misc. Application No. 2442 of 2006.

4 It appears that the incident in question occurred on 29th of August, 2005 at 8.45 p.m. at Mehsana. It is alleged that the

complaint came to be filed by Babaji Raydhanji Rajput against in all four accused including the present two appellants stating that the appellants and other accused picked up quarrels with the wife of the complainant and appellant Rameshkumar Babuji Rajiput and appellant Bhikhaji Jaguji Rajput gave fist blows to complainant Babaji Raydhanji Rajput, which resulted in loss of three tooth of Babaji and who was also given fist blows on left temple of appellant Rajput Rameshkumar Babuji and, hence, in all against four accused, for the offence punishable under Sections 323, 325, 504 and 114 of the IPC, a charge sheet was filed and being cross case, as it appears, the case was committed to the Court of Sessions and was numbered as Sessions Case No. 219 of 2005. By impugned judgment and order, learned Trial Judge was pleased to acquit accused Nos. 1 and 4 of the said Sessions Case while the present appellant accused Nos. 2 and 3 were convicted and sentenced, as aforesaid. It appears that, for the same offence, present appellant Rameshkumar Babujai Rajput, also filed complaint against complainant Babaji Raydhanji Rajput, for which also Sessions Case No. 195 of 2005 was proceeded against the accused for the offence punishable under Section 307 of the Indian Penal Code. In the said Sessions Case, complainant of this case, Babaji Raydhanji Rajput, was convicted by the learned Additional Sessions Judge for the offence punishable under Section 307 of the IPC and he was sentenced to undergo seven years rigorous imprisonment, for which Babaji Raydhanji Rajput preferred a Criminal Appeal

before this Court, being Criminal Appeal No. 64 of 2006. In the said Criminal Appeal, original informant and appellant of Criminal Appeal No. 64 of 2006, is in custody.

4 In the present appeal also, accused are Rameshkumar Babuji Rajput and Bhikhaji Jaguji Rajput while injured is Babaji Raydhanji Rajput, who is undergoing imprisonment in jail. Learned Advocates for the parties placed on record a compromise purshis entered into between the parties in respect of the offences punishable under Sections 325 and 323 to read with Section 114 of the Indian Penal Code. This compromise is signed by both the appellants and witness, but since the injured Babaji Raydhanji Rajput is in custody, on his behalf, his wife Hansben Babaji has put a signature of thumb impression. All the parties are identified by learned Advocates for the parties before the Court. The compromise purshis, as submitted by learned Advocates, is taken on record. It is submitted that the parties are residing in same society/locality and having cordial relationship since long. The incident in question had occurred in spur of moment and in view of the ground that both the families had smooth relationship earlier, the elders of the caste intervened and persuaded both the sides to compromise the matter and to maintain good relationship. It is submitted, therefore, that for the benevolent purpose that peace and smooth relationship be maintained between the parties, they have compromised the matter and permission to compromise be granted to the parties and the

compromise be recorded and conviction and sentences be set aside, consequently, acquitting the appellants in the said Sessions Case.

5 In view of what is submitted above, permission to compound the offences under Sections 325 and 114 of the IPC is granted. Compromise arrived at between the parties for the offences punishable under Sections 323, 325 and 114 of the Indian Penal Code is recorded.

6 In the result, this Appeal is allowed and in view of the compromise entered into the parties, the judgment and order delivered by learned Trial Judge in Sessions Case No. 219 of 2005 on 31st of December, 2005 convicting and sentencing both the appellants for the offences punishable under Sections 323, 325 and 114 of the Indian Penal Code is set aside. Both the appellants are acquitted of the charges under Sections 323, 325 to read with Section 114 of the Indian Penal Code in Sessions Case No. 219 of 2005. Trial Court is directed to refund the amount of fine paid by each of the appellant in said Sessions Case before the Trial Court. Bail bonds submitted by each of the appellants stands cancelled.

(J. R. VORA, J.)

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